



## Department of Environmental Protection

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# SHORELAND ZONING NEWS

Shoreland Zoning Unit, Augusta (207) 287-2111, Bangor (207) 941-4570

## POINTLESS POLLUTION

by Barbara Welch,

Land and Water Bureau Education/Outreach Coordinator

"What in the world does nonpoint source pollution mean? Nonpoint sounds as though there were nothing there. If there is no point, what is the point of being concerned?" These questions were raised recently by David Deen, Connecticut River Steward, at a regional meeting of citizens and government officials concerned about water quality.

Actually, "nonpoint source pollution" refers to contaminants that come from diffuse sources, like soil erosion for example, instead of from one place like a factory discharge pipe. But is that really accurate?

In a way, even nonpoint source pollution originates with one source- you and me.

Mr. Deen suggests we hold a contest to get the right name. His suggestions include dog doo-doo runoff, the out-of-sight-out-of-mind pollution, and human activity contamination. At the DEP we prefer "polluted stormwater runoff" which describes how the pollution gets to our waters.

But so what - who cares about NPS or polluted stormwater? Not many folks. In recent surveys by Market Decisions, 35% of Mainers could not name one thing that is polluting our waters.

"Pollution has a staggering quality to it," said Mr. Deen. "Pollution reaches into the future and reduces the value of our future. There are few other things humans have ever produced

that have as long a reach beyond our brief time on the planet. I would hope that certain works of literature reach as far into the future as our trash, but I doubt it."

So what can we do to protect our waters from pollution? One thing we can do is leave trees and shrubs along our shorelines and along waterways including ditches and swales. And we can plant trees and shrubs where they have been cleared.

These natural areas serve as sponges to absorb nutrient-rich runoff from our lawns, horse pastures, dirt roads, forestry cutting operations, and malls.

They work by:

- Slowing down the flow of stormwater, giving it time to soak into the ground;
- Filtering out soil particles before they can add to the silt and discoloration;
- Using the nutrients for plant growth on land instead of fueling algal blooms in our waters; and
- Removing pathogens that threaten health.

By leaving trees and shrubs along our waterways and planting new ones, we can take an effective, cost efficient step in preserving our waters for the present and the future. Clean water starts with us!

## QUESTIONS AND ANSWERS

### Question #1:

Our ordinance standards for piers and docks say they should be no larger than necessary to carry on the activity and be consistent with existing conditions, use, and the character of the area. What does that mean?

#### Answer:

Good Question. The wording comes straight out of the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*.

No specific standards were included in the guidelines because of the varying needs of the different communities state-wide. For example, a pier on the downeast coast with a 15-foot tide would need to be significantly larger than a temporary dock on a sheltered 10-acre pond.

The intent of the standard is to ensure that new docks will blend in with the surroundings and not be significantly different from the neighbor's dock. The goal is also to limit the size to the minimum necessary for its intended use as an access point to the water. Piers and docks are water-dependent structures, and should not be viewed as aquatic patios, even though the flyers at your local home center might suggest otherwise.

To clarify what is allowed, a number of communities adopt maximum width and length standards as part of their ordinances to make it clearer for property owners and more readily enforceable. This is a very good idea.

The range for inland waters is typically a maximum width of 4 to 6 feet. The length is usually limited to that necessary to float watercraft and not interfere with navigation, with a "not to exceed" cap of around 20 to 30 feet. Piers on coastal waters usually include a ramp and float extension long enough to float watercraft at low tide.

Your town may also want to consider adopting specific size limits based on the character and size of the waterbodies in your community.

### Question #2:

When our town Code Enforcement Officer discovers a shoreland zoning violation, what is the DEP's role?

#### Answer:

The DEP's role under the Mandatory Shoreland Zoning Act is to ensure that each community has an ordinance that is consistent with minimum state guidelines, and that the community is properly administering that ordinance. This includes taking enforcement action when necessary.

Our primary role is to provide assistance to the CEO in recommending options for resolving the problem. This may involve meeting with the CEO and landowner on-site to explain the law and discuss solutions on a voluntary basis. These voluntary agreements are intended to fix the problem without formal enforcement action through the court system. Most land ordinance violations are resolved this way.

If a community discovers a shoreland zoning violation and fails to take appropriate action to correct the problem, again, the DEP works with the town officials and the landowner to seek voluntary compliance with the law.

Occasionally, it is necessary for the DEP to seek legal action against both the Town and landowner through the Attorney General's Office and the Courts. This is the alternative of last resort, and is only used when all other efforts have failed and the town officials have refused to administer the ordinance as required by law.

**Question #3:**

Our Code Officer and Planning Board routinely approve additions to nonconforming structures under the 30% expansion cap. Understanding that this cap applies for the life of the structure, how can we keep track of these additions over time? We routinely change CEOs and Planning Board members every few years.

**Answer:**

Tracking expansions under the 30% rule can be one of the most challenging aspects of shoreland permitting. Its not hard to do, it just requires establishing a procedure and sticking to it.

One of the best methods we've heard of is making a note on the property tax assessment card every time a new addition or accessory structure is permitted. The note should include the size of the structure as of 1989 (the number should be found in the permit application provided by the landowner), the permit date, and the percent increase in volume and floor area. You can also reference the premit number if these are filed separately.

The note is placed on the property tax card because the map and lot number do not change over time, but the property owner may change fairly often.

The Planning Board and Code Officer should then make it a point to check the tax cards every time they receive a new permit application, both to confirm ownership of the property, and to see if any prior expansions have ocured since 1989 when the 30% rule went into effect. These previous expansions are then counted toward the 30% cap.

It is also a good idea to attach a dated photo to the card or permit file at the time of final inspection of a permitted project. This helps confirm that the work was done according to the permit, and provides documentation should any future unauthorized changes be made to the property and enforcement action become necessary.

**Question #4:**

The Clearing of Vegetation for Development standards in our ordinance state that all existing ground cover less than three feet high is to be maintained adjacent to great ponds, except for a footpath up to 6 feet wide. Does this include leaves and pine needles?

**Answer:**

Yes. The leaves and needles on the ground in a wooded area is called the "duff layer" and is part of the existing ground cover. As mentioned in the first page article, this cover is critical for absorbing rainfall and stormwater runoff so that it can soak into the soil. This also allows the nutrients to be taken up by the upland plants rather than washing into the lake to feed the algae.

The DEP staff is often asked if it is OK to rake up the natural duff layer and replace it with loam and grass. Not only is this prohibited adjacent to lakes but it also destroys a very good buffer and replaces it with one that does not work very well at all. Grass is good for holding the soil it grows on, but lawns do very little to trap and hold stormwater and sediment.

Another common question is whether bare soil areas within a wooded buffer strip adjacent to lakes can be loamed and seeded with grass. Again the answer is no. The reason these areas are bare is usually a combination of shading, and foot traffic. This tramples the duff layer, compacts the soil, and retards plant growth. The best solution in these areas is the create a well-defined path with a surface material, like clean stone, that will stand-up to repeated foot traffic, then cover the remaining areas with mulch and plantings to hold the soil and runoff and help direct traffic to the path.

As a gentle reminder, if your community is listed below, please check on the status of the draft shoreland zoning map. If it was adopted, please send an attested copy to the DEP. If not, please have it reviewed by the Planning Board and placed on the next town meeting warrant. As part of that effort, the DEP shoreland zoning staff are happy to meet with town officials to discuss any issues regarding the maps prior to public hearings and town meeting.

## **SHORELAND ZONING MAPS A Gentle Reminder**

Over the past five years the DEP staff has prepared over 150 shoreland zoning maps at the request of communities wishing to improve the accuracy of their shoreland districting, particularly with regard to freshwater wetlands. The maps were prepared under an EPA Grant at no cost to the town, with the understanding that the municipality would present the new map for adoption at Town Meeting after Planning Board review.

So far, over two thirds of the maps have been adopted, or used as the starting point for computer-based maps prepared by a commercial mapping service, and then adopted by the town. However, there are still a significant number of communities that have either not voted on the new map, or forgotten to send an attested copy of the map to the DEP for final approval.  
(continued)

### **TOWNS WITH DRAFT SHORELAND ZONING MAPS PREPARED BY DEP**

ABBOT	HAYNESVILLE	SAINT FRANCIS
ADDISON	HERMON	SANGERVILLE
ALEXANDER	HUDSON	SEARSPORT
ATKINSON	JACKMAN	SEBEC
BAILEYVILLE	JACKSON	SIDNEY
BALDWIN	JEFFERSON	STETSON
BENTON	LIMESTONE	STOCKHOLM
BOWDOIN	MARSHFIELD	UPTON
BRIDGEWATER	MASARDIS	VAN BUREN
BROWNFIELD	MEDWAY	VASSALBORO
BYRON	MILBRIDGE	WALDOBORO
CARMEL	MILFORD	WALLAGRASS
CASTLE HILL	MONROE	WAYNE
CHARLESTON	MONTICELLO	WELD
CORNVILLE	MONTVILLE	WESTFIELD
CRAWFORD	NEW SWEDEN	WESTON
DENNYSVILLE	NEW VINEYARD	WHITING
DYER BROOK	NORTHFIELD	WHITNEYVILLE
FAIRFIELD	PATTEN	WOODLAND
FRANKLIN	PROSPECT	
FRENCHVILLE	SAINT AGATHA	

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